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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,670	02/20/2004	Shenli Ko	GAMBOL04-01	7274

7590 06/07/2005

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EXAMINER

LAYNO, BENJAMIN

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 06/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/783,670

Applicant(s)

KO, SHENLI

Examiner

Benjamin H. Layno

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 6-10, 13, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bochichio et al.

The patent to Bochichio et al. discloses a method of playing a card game using a deck of 52 cards. To play Bochichio's game a player makes a first wager 34. Four cards are dealt to a dealer hand with one card exposed 36, and three cards are dealt to the player to define an initial holding. The player making a second wager 45, 46, after seeing the dealer's exposed card, col. 4, lines 19-23. The dealer exposes the dealer hand of four cards 48, and the dealer assembles from the hand of four cards, the highest ranking of three cards (high hand), col. 4, lines 58-61. If the dealer's hand has a ranking below a predetermined rank, the dealer pays the player an award based upon the first wager 50, 52, 54, col. 5, lines 5-9 and see table showing examples of dealer's hands, whether such hands qualify, col. 5, lines 16-28. If the dealer's hand has a ranking above the predetermined rank, and outranks the player's final hand, the player losing their first wager, 66, 70, col. 5, lines 55-58. If the dealer's hand has a ranking above the predetermined rank and the player's final hand outranks the dealer's hand, an award is issued to the player based on the first wager, 66, 74, col. 5, lines 59-67.

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The award is based on the first wager and a predetermined schedule or awards based upon the ranking of the player's hand, see table in col. 6, lines 30-43. Odds on certain hands "Royal Flush 100 :1", "Straight Flush 20 :1", etc. have odds greater than 1:1.

The only step recited in claim 1 that Bochichio lacks is "the player....opting to....discard and replace at least one card to define a final holding".

The patent to Franklin discloses a poker game played similar to Bochichio's game wherein the dealer is dealt a hand of four cards, and each player is dealt a hand of three cards. The dealer assembling from the hand of four cards, the highest ranking of three cards. **The player examining his initial holding of three cards, and opting to discard and replace at least one card to define a final holding, col. 2, lines 59-67.** Each player's three card hand is compared to the best three of the four cards belonging to the dealer to determine the winner.

In view of such teaching, it would have been obvious to incorporate the step of giving the player the option of discarding and replacing at least one card from their three card hand. This modification would have added more strategy to Bochichio's game by giving the player an option of attempting to better his hand, giving the player the perception of increasing his chances of winning, and making Bochichio's game more attractive.

In regard to claims 6, 8, 9, 15 and 16, Bochichio's table in col. 6, lines 30-43 shows awards to the player based upon the second wager if the dealer's hand is below a predetermined ranking "Dealer Not Qualifying". Determining exactly what combination

of cards is in dealer's hand, and what payoff odds to assign to the hands, is simply an obvious casino management decision that is always obvious in the art.

Concerning claim 13, Franklin teaches that it known in the poker art to provide a "jackpot bet" 30 wherein if a player places a "jackpot bet", and that player receives a three card poker hand that matches a pre-selected winning hand according to a predetermined schedule, col. 4, lines 4-9, that player is issued an award. In view of such teaching, it would have been obvious to incorporate a third wager (jackpot wager) to Bochichio's game. This modification would have given the players the perception of having another opportunity at receiving additional awards, thus making Bochichio's game more attractive.

3. Claims 5, 11, 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bochichio et al. in view of Franklin as applied to claim 1 above, and further in view of Kenny et al.

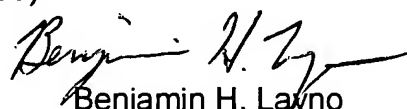
The patent to Kenny et al. disclose a poker game wherein N is at least 5, and the player's highest four card hand is compared the dealer's highest four card hand, see paragraphs [0010] – [0011]. In view of such teaching, it would have been obvious to modify Bochichio's game such that N is at least 5. This modification would have provided each player with a four-card poker hand, instead of a three-card poker hand. Thus, giving the players the perception of potentially having higher ranked card hands, making the Bochichio's game more attractive.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin H. Layno whose telephone number is (571) 272-4424. The examiner can normally be reached on Monday-Friday, 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on (571)272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Benjamin H. Layno
Primary Examiner
Art Unit 3711

bhl